



Oneida Nation's Successful Appeal Judge Griesbach's Court Decision on Diminishment

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(Oneida Reservation)- In May of 2019, the Oneida Nation appealed United States District Court Judge William Griesbach's ruling that allotment of the Oneida Reservation and the subsequent acquisition of Reservation land by non-Indians resulted in diminishment of the Reservation, as claimed by the Village of Hobart in *Oneida Nation v. Village of Hobart*.

Background:

In the litigation, the Oneida Nation challenged the Village's attempts to impose its special event ordinance on the Nation on the Oneida Reservation, which was established pursuant to the 1838 Treaty with the Oneida. In ruling against the Nation, Judge Griesbach disregarded Supreme Court cases holding that an Indian reservation may only be diminished by an act of Congress which clearly expresses the intent to do so, and that allotment of an Indian reservation and the subsequent acquisition of reservation land by non-Indians does not diminish a reservation. Judge Griesbach also failed to apply the federal statutory definition of Indian country, which specifically acknowledges that all land within a reservation is Indian country "notwithstanding the issuance of any patent."

Today, the United States Court of Appeals for the Seventh Circuit ruled in favor of the Oneida Nation and reversed Judge Griesbach's decision in all respects. The Seventh Circuit held, "***In sum, as a matter of federal law, the entire Reservation as established by the 1838 Treaty remains Indian Country. The Village lacks jurisdiction to apply its ordinance to the Nation's on-reservation activities.***" In reaching this decision, the Seventh Circuit highlighted that "the Supreme Court has rejected – time and time again – the Village's argument that diminishment can be the result of Congress's general expectation in the late nineteenth and early twentieth centuries that its actions would lead eventually to the end of the reservation system." And the Seventh Circuit determined that "the evidence offered by the Village is so inconclusive that it could not justify a finding that the United States unilaterally broke the 1838 Treaty."

Chairman Tehassi Tasi Hill stated, "The Oneida Nation appreciates the support from the Federal Government, the State of Wisconsin, and the National Congress of American Indians and Indian Land Tenure Foundation for their filing of amicus curiae briefs in this case."

Oneida has long asserted our sovereignty and exercised it to protect our people, our lands and our government. We are vindicated by this ruling today and we look toward the future of continual governance on our lands and in our community. Business will move forward as usual, although we all have been negatively impacted by the COVID pandemic, we are now more confident in how we govern our affairs without the threat of Hobart's continual litigation."

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